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Hearing Date: November 16, 2011, 10:00 a.m.
Objection Deadline: November 9, 2011, 4:00 p.m.

Attorneys for Asbury Atlantic, Inc. and Asbury-Solomons, Inc.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
LEHMAN BROTHERS HOLDINGS INC., *et al.* : Case No. 08-13555 (JMP)
Debtors. : Jointly Administered
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**STATEMENT OF ASBURY ATLANTIC, INC. AND
ASBURY-SOLOMONS, INC. WITH RESPECT TO MOTION
PURSUANT TO SECTIONS 105, 363, AND 365 OF THE BANKRUPTCY
CODE TO ESTABLISH PROCEDURES FOR THE CONSENSUAL AMENDMENT AND
ASSUMPTION OF CERTAIN NON-TERMINATED PREPETITION DERIVATIVES CONTRACTS**

Asbury Atlantic, Inc. (“AAI”) and Asbury-Solomons, Inc. (“ASI” and, together with AAI, “Asbury”), by and through their undersigned counsel, respectfully submit this reservation of rights (“Reservation”) with respect to the *Debtors’ Motion Pursuant to Sections 105, 363, and 365 of the Bankruptcy Code for Authorization to Establish Procedures for the Consensual Amendment and Assumption of Certain Non-Terminated Prepetition Derivatives Contracts* dated October 26, 2011, Docket No. 21297 (“Motion”). Asbury respectfully states as follows:

1. AAI and ASI are each parties to an interest rate swap agreement (“Asbury Swaps”) with Lehman Brothers Special Financing, Inc. (“LBSF”), one of the Debtors.¹ Asbury does not object to the relief requested in the Motion. Rather, Asbury is filing this Reservation to reserve all rights with respect to the Asbury Swaps.

2. The Motion seeks approval of “procedures . . . for the *consensual* amendment and assumption of the Debtors’ Derivatives Contracts . . . including authorization to satisfy all cure obligations and to pay all expenses and fees in connection with securing substitute performance, credit support, or other forms of adequate assurance in connection therewith, subject to the consent of the Creditors’ Committee.” Motion ¶ 4 (emphasis added). The Debtors appear to concede throughout the Motion that any change to the terms of prepetition derivatives contracts such as the Asbury Swaps require the counterparty’s consent. *See, e.g.*, Motion ¶ 12; Motion Exh. A (Proposed Order) at 2.

3. Nevertheless, out of an abundance of caution, Asbury is filing this Reservation to make clear that nothing in any order granting the Motion should be construed as authority for the Debtors to take any unilateral action to “amend” the Asbury Swaps. Instead, as Asbury asserted in the Objection and consistent with well-established bankruptcy law, if the Debtors wish to assume the Asbury Swaps pursuant to Section 365 of the Bankruptcy Code, they must comply with all of the provisions thereof (including, but not limited to, the requirement that LBSF furnish appropriate guaranties, as more fully described in the Objection). Alternatively, if the Debtors desire that the Asbury Swaps be amended or otherwise renegotiated, such amendment or renegotiation is subject entirely to Asbury’s consent.

¹ The Asbury Swaps are more particularly described in the *Limited Objection of Asbury Atlantic, Inc. and Asbury-Solomons, Inc. to Assumption by Debtors of Prepetition Derivative Contracts* dated November 2, 2011, Docket No. 21505 (“Objection”), which is fully incorporated herein by reference.

4. Asbury reserves all rights with respect to the Asbury Swaps. Asbury also reserves the right to supplement this Reservation and to appear and be heard at the hearing to consider the Motion.

Dated: New York, New York
November 4, 2011

Respectfully submitted,

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